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GENERAL COUNSEL
OF COPYRIGHT

In the Matter of)	
)	Docket No. 2001-1
Digital Performance Right in)	CARP DSTRA 2
Sound Recordings)	and
Rate Adjustment Proceedings)	Docket No. 2001-2
)	CARP DTNSRA

COMMENTS OF DIGITAL MEDIA ASSOCIATION

Pursuant to the Notice of Inquiry and Request for Comments published by the Copyright Office at 66 Fed. Reg. 58180 (November 20, 2001), the Digital Media Association ("DiMA") respectfully supports consolidation of the two above-captioned proceedings into a single arbitration. DiMA members include Internet webcasters that currently offer, or intend to offer, noninteractive subscription services pursuant to the Section 114 statutory license. We believe that several important efficiencies can be achieved through a consolidated proceeding.

First, the parties in each arbitration will be presenting a substantial volume of common evidence. Such evidence likely would include information relating to the business models of various subscription services that are not involved in that particular arbitration proceeding; the differences and overlap in markets served by such services; competition among such services, rates and terms of licenses for performance rights granted to subscription services for musical works and sound recordings; rates and terms of licenses for similar or analogous services; and so forth. Consolidation will avoid duplication of effort in each proceeding and, thus, save time and money. To the extent that witnesses from these services might be called to testify in more than one proceeding, consolidation will save the time and cost of appearing in multiple arbitrations.

Moreover, in the absence of consolidation, witnesses from one type of service might not

otherwise be available in another CARP in which their information remains relevant, but their service is not implicated. Thus, importantly, consolidation will result in a richer record wherein relevant evidence relating to each type of subscription service will be presented first-hand by those services themselves, rather than through second-hand expert testimony.

Second, expert witnesses will be required to prepare and analyze the market for all of these services. By consolidating the proceeding, expert witnesses potentially can be shared among all services, which will reduce the costs to the parties. In addition, consolidation will provide these experts with information directly from each company, thus enabling the experts to provide the arbitrators with a more insightful and comprehensive analysis of the relevant markets and economics.

Third, consolidation would save expense and time in the administration of the CARP proceedings. The arbitrators likely would receive much of the same industry and licensing information in each proceeding. Consolidation therefore would eliminate the need to receive duplicative testimony and evidence in separate proceedings, and would save substantial time and effort by both the arbitrators themselves and by the Copyright Office.

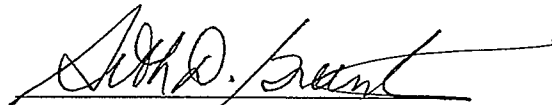
Finally, it is possible that some of the same parties may participate in or have an interest in the outcome of each proceeding. Cable and satellite subscription services have been offered via Internet webcasting in the past, and it is entirely possible that they may wish to do so in the future with the same programming or with additional channels tailored to the Internet audience. Therefore, consolidation would save such parties the expense of participating in multiple proceedings.

In sum, DiMA respectfully believes that consolidation of the two subscription service proceedings would be in the best interests of the parties and the arbitrators. Consolidation would

create efficiencies for the parties, and promote the development of a richer record for the Report of the arbitrators and the Librarian of Congress.

Respectfully submitted,

Date: December 20, 2001

A handwritten signature in black ink, appearing to read "Seth D. Greenstein", written over a horizontal line.

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